

110TH CONGRESS
2D SESSION

H. R. 6706

To provide for enhanced retirement benefits for administrative law judges.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2008

Mr. KUCINICH (for himself, Mr. SHAYS, Mr. GORDON of Tennessee, Mr. GOODE, Mr. DAVIS of Illinois, Mr. GRIJALVA, Ms. SCHAKOWSKY, Mr. ANDREWS, Mr. HASTINGS of Florida, Mr. BUTTERFIELD, and Mr. CUMMINGS) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

A BILL

To provide for enhanced retirement benefits for
administrative law judges.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; REFERENCES.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Administrative Law Judges Retirement Act of 2008”.

6 (b) REFERENCES.—Whenever in this Act an amend-
7 ment is expressed in terms of an amendment to a section
8 or other provision, the reference shall be considered to be

1 made to a section or other provision of title 5, United
2 States Code.

3 **SEC. 2. PROVISIONS RELATING TO THE CIVIL SERVICE RE-**
4 **TIREMENT SYSTEM.**

5 (a) DEFINITION.—Section 8331 is amended—

6 (1) in paragraph (30), by striking “and” at the
7 end;

8 (2) in paragraph (31), by striking the period
9 and inserting a semicolon; and

10 (3) by adding at the end the following:

11 “(32) ‘administrative law judge’ means an ad-
12 ministrative law judge appointed under section 3105
13 or a similar prior provision of law.”.

14 (b) DEDUCTIONS, CONTRIBUTIONS, AND DEPOS-
15 ITS.—Section 8334 is amended—

16 (1) in subsection (a)(1)(A), by striking “or cus-
17 toms and border protection officer,” and inserting
18 “customs and border protection officer, or adminis-
19 trative law judge,”;

20 (2) in subsection (a)(1)(B)—

21 (A) in the first sentence of clause (i), by
22 striking “clause (ii),” and inserting “clause (ii)
23 or (iii),”; and

24 (B) by adding after clause (ii) the fol-
25 lowing:

1 “(iii) In the case of an administrative law judge, the
 2 amount to be contributed under this subparagraph shall
 3 (instead of the amount described in clause (i)) be equal
 4 to the amount derived by multiplying the administrative
 5 law judge’s basic pay by the percentage that is 1 percent-
 6 age point less than the percentage applicable under sub-
 7 section (c).”; and

8 (3) in subsection (c), by adding after the item
 9 relating to a nuclear materials courier the following:

“Administrative law judge	5	June 11, 1947, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6.5	November 1, 1956, to December 31, 1969.
	7	January 1, 1970, to December 31, 1998.
	7.25	January 1, 1999, to December 31, 1999.
	7.4	January 1, 2000, to December 31, 2000.
	7	January 1, 2001, to (but not in- cluding) the effective date of the Administrative Law Judges Re- tirement Act of 2008.
	8	The effective date of the Adminis- trative Law Judges Retirement Act of 2008 and thereafter.”.

10 (c) IMMEDIATE RETIREMENT.—

11 (1) IN GENERAL.—Section 8336 is amended by
 12 adding at the end the following:

13 “(q) An employee who is separated from the service
 14 after completing 10 years of service as an administrative
 15 law judge and becoming 60 years of age is entitled to an
 16 annuity. An employee who is separated from the service
 17 voluntarily after completing 10 years of service as an ad-

1 ministrative law judge but before becoming 60 years of
2 age is entitled to a reduced annuity.”.

3 (2) DISCONTINUED SERVICE OR EARLY VOL-
4 UNTARY RETIREMENT.—Section 8336(d) is amended
5 by adding at the end the following: “In the case of
6 an administrative law judge, the preceding provi-
7 sions of this subsection shall be applied by treating
8 any reference in such provisions to removal or sepa-
9 ration for ‘misconduct or delinquency’ or for ‘mis-
10 conduct or unacceptable performance’ to refer to re-
11 moval under section 1215, 7521, or 7532.”.

12 (d) COMPUTATION OF ANNUITY.—Section 8339 is
13 amended—

14 (1) in subsection (f), by striking “(r), and (s)”
15 and inserting “(r), (s), and (v)”;

16 (2) in subsection (h), by adding at the end the
17 following: “The annuity computed under subsections
18 (f) and (v) for a employee retiring under the second
19 sentence of section 8336(q) is reduced by $\frac{1}{12}$ of 1
20 percent for each full month not in excess of 60
21 months, and $\frac{1}{6}$ of 1 percent for each full month in
22 excess of 60 months, the employee is under 60 years
23 of age at the date of separation.”;

24 (3) in subsection (i), by striking “(r), or (s)”
25 and inserting “(r), (s), or (v)”;

1 (4) by adding at the end the following:

2 “(v) The annuity of an employee retiring under sec-
3 tion 8336(q) is computed under subsection (a), except, if
4 the employee has had at least 5 years’ service as an ad-
5 ministrative law judge, the employee’s annuity is com-
6 puted with respect to—

7 “(1) such employee’s service as an administra-
8 tive law judge; and

9 “(2) such employee’s military service not ex-
10 ceeding 5 years;

11 by multiplying 2½ percent of such employee’s average pay
12 by the years of that service.”.

13 (e) TECHNICAL AND CONFORMING AMENDMENTS.—

14 (1) Sections 8337(a) and 8339(g) are amended by striking
15 “or (s)” each place it appears and inserting “(s), or (v)”.

16 (2) Subsections (j), (k)(1), (l), and (m) of section
17 8339, subsections (b)(1) and (d) of section 8341, section
18 8343a(c), and section 8344(a)(A) are amended by striking
19 “and (s)” each place it appears and inserting “(s), and
20 (v)”.

21 (3) Subsections (j)(3) (in the third sentence before
22 the sentence containing subparagraph (A)), (j)(5)(C)(iii),
23 and (k)(2)(C) of section 8339 are amended by striking
24 “and (r)” and inserting “(r), and (v)”.

1 (4) Section 8335(a) is amended by striking
2 “8331(29)(A)” and inserting “8331(30)(A)”.

3 **SEC. 3. PROVISIONS RELATING TO THE FEDERAL EMPLOY-**
4 **EES’ RETIREMENT SYSTEM.**

5 (a) DEFINITION.—Section 8401 is amended—

6 (1) in paragraph (35), by striking “and” at the
7 end;

8 (2) in paragraph (36), by striking the period
9 and inserting “; and”; and

10 (3) by adding at the end the following:

11 “(37) ‘administrative law judge’ means an ad-
12 ministrative law judge appointed under section 3105
13 or a similar prior provision of law.”.

14 (b) EARLY RETIREMENT.—Section 8414(b) is
15 amended by adding at the end the following:

16 “(4) In the case of an administrative law judge, the
17 preceding provisions of this subsection shall be applied by
18 treating any reference in such provisions to removal or
19 separation for ‘misconduct or delinquency’ or for ‘mis-
20 conduct or unacceptable performance’ to refer to removal
21 under section 1215, 7521, or 7532.”.

22 (c) COMPUTATION OF ANNUITY.—Section 8415 is
23 amended—

24 (1) in subsection (h)(2), by striking “or cus-
25 toms and border protection officer” and inserting

1 “customs and border protection officer, or adminis-
 2 trative law judge.”; and

3 (2) by adding at the end the following:

4 “(n) The annuity of an administrative law judge, or
 5 a former administrative law judge, retiring under this sub-
 6 chapter is computed under subsection (a), except that if
 7 the individual has had at least 5 years of service as an
 8 administrative law judge, so much of the annuity as is
 9 computed with respect to such type of service, not exceed-
 10 ing a total of 20 years, shall be computed by multiplying
 11 $1\frac{7}{10}$ percent of such employee’s average pay by the years
 12 of that service.”.

13 (d) DEDUCTIONS FROM PAY.—Section 8422(a)(3) is
 14 amended by adding after the item relating to a customs
 15 and border protection officer the following:

“Administrative law judge	7	January 1, 1987, to December 31, 1998.
	7.25	January 1, 1999, to December 31, 1999.
	7.4	January 1, 2000, to December 31, 2000.
	7	January 1, 2001, to (but not including) the effective date of the Administrative Law Judges Retirement Act of 2008.
	8	The effective date of the Administrative Law Judges Retirement Act of 2008 and thereafter.”.

16 (e) GOVERNMENT CONTRIBUTIONS.—Section 8423 is
 17 amended—

18 (1) in subsection (a)(1)(B)(i), by striking “and
 19 employees under sections 302 and 303 of the Cen-

1 tral Intelligence Agency Retirement Act, multiplied
2 by” and inserting “employees under sections 302
3 and 303 of the Central Intelligence Agency Retirement
4 Act, and administrative law judges, multiplied
5 by”;

6 (2) by amending paragraph (2) of subsection
7 (a) to read as follows:

8 “(2) In determining any normal-cost percentage to
9 be applied under this subsection—

10 “(A) amounts provided for under section 8422
11 shall be taken into account; and

12 “(B) amounts provided by or for administrative
13 law judges under subchapter III of chapter 83 (in-
14 cluding sections 8334 and 8348, and whether pro-
15 vided before, on, or after the effective date of this
16 subparagraph) shall, to the extent they exceed the
17 normal cost of the benefits which are (i) provided for
18 under subchapter III of chapter 83, and (ii) attrib-
19 utable to service performed as an administrative law
20 judge (within the meaning of such subchapter), be
21 taken into account as if they had been provided by
22 or for administrative law judges under this chap-
23 ter.”; and

1 (3) in subsection (a)(3)(A), by inserting “ad-
2 ministrative law judges,” after “military reserve
3 technicians,” each place it appears.

4 **SEC. 4. EFFECTIVE DATE.**

5 (a) IN GENERAL.—This Act and the amendments
6 made by this Act—

7 (1) shall take effect on the date of the enact-
8 ment of this Act; and

9 (2) except as provided in subsection (b), shall
10 apply only with respect to administrative law judges
11 first appointed on or after the effective date of this
12 Act.

13 (b) EXCEPTION.—

14 (1) ELECTION FOR INCUMBENTS.—The amend-
15 ments made by this Act shall apply with respect to
16 any individual serving as an administrative law
17 judge on the effective date of this Act if appropriate
18 written application is submitted to the Office of Per-
19 sonnel Management within 12 months after such ef-
20 fective date.

21 (2) TREATMENT OF PRIOR SERVICE.—

22 (A) DEPOSIT REQUIREMENT.—An indi-
23 vidual who makes an election under paragraph
24 (1) shall, with respect to any administrative law
25 judge service performed by such individual prior

1 to the date as of which deductions from such
2 individual's pay begin to be made in accordance
3 with the amendments made by this Act, be re-
4 quired to pay into the Civil Service Retirement
5 and Disability Fund an amount equal to the
6 difference between—

7 (i) the unrefunded individual contribu-
8 tions that were made for such prior serv-
9 ice; and

10 (ii) the individual contributions that
11 would have been required if the rate (or
12 rates) in effect for such prior service had
13 been equal to the rate (or rates) actually in
14 effect for such prior service, increased by 1
15 percentage point.

16 (B) EFFECT OF NOT MAKING DEPOSIT.—

17 If or to the extent that any amounts under sub-
18 paragraph (A) are not paid by an individual
19 making an election under paragraph (1), any
20 annuity based on the service of such indi-
21 vidual—

22 (i) shall be computed in accordance
23 with the amendments made by this Act;
24 but

1 (ii) shall be reduced in a manner simi-
2 lar to that set forth in section
3 8334(d)(2)(B) of title 5, United States
4 Code.

5 (3) SURVIVOR ANNUITANTS.—In the case of an
6 individual described in paragraph (1) who dies be-
7 fore the end of the 12-month period beginning on
8 the effective date of this Act, any application or de-
9 posit under this subsection may, for purposes of any
10 survivor annuity based on the service of such indi-
11 vidual, also be made by a survivor of such individual.

12 (c) DEFINITION.—For purposes of this section, the
13 term “administrative law judge” means an administrative
14 law judge appointed under section 3105 of title 5, United
15 States Code, or a similar prior provision of law.

16 (d) REGULATIONS.—The Office of Personnel Man-
17 agement may prescribe any regulations necessary to carry
18 out this section.

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